Understanding your auto claim

DIFP

Department of Insurance
Financial Institutions &
Professional Registration

Filing a claim

Immediately notify the police of an accident that damaged other's property or if you were the victim of a hit-and-run accident, uninsured motorist, vandalism or theft.

Report your accident or the circumstances that will cause you to file a claim with your insurance company or agent/producer. If you were not at fault, report the accident to the other driver's insurance company. Follow the company's instructions when making your claim. According to Missouri statute section 375.1007(4) RSMo and Missouri regulation 20 CSR 100-1.050, insurance companies are required to handle claims promptly and fairly.

If you are in an accident with an uninsured motorist, notify your own carrier, and a report should be made to the Missouri Department of Revenue if:

- The accident happened in Missouri
- One year has not passed since the accident happened
- Someone involved in the accident did not have liability insurance coverage
  AND
- There is damage to any one or more person's property in excess of $500; or there was personal inury or death

You may obtain a state "Uninsured Accident Report" form from any branch of the Missouri Department of Revenue or State Highway Patrol.

Missouri Department of Revenue
301 W. High St., Room 470
Jefferson City, MO 65101
(573) 751-7195

You can contact the State Highway Patrol General Headquarters by calling (573) 751-3313.

Understanding your claim

What is physical damage?

Physical damage insurance typically is the comprehensive and collision coverage on your vehicle.

Comprehensive insurance pays for damages to your car from perils such as fire, theft, explosion, windstorm, hail, vandalism, glass breakage, birds, and animals. Covered perils are listed in your policy under the insuring agreements section. This coverage may have no deductible, a $100 deductible, a $250 deductible, or more. The deductible is the amount of any loss you must pay before the insurance company will cover damages.

Collision insurance covers damage caused by the collision of your car, regardless of who is responsible for the accident. This type of insurance usually includes a deductible. Again, you pay the deductible amount when you have an accident, and the insurance company pays the rest, up to the limits of your policy.

What is diminished value?

Diminished value is the difference in fair market value of the auto immediately before the accident and the auto immediately after the accident causing the damage. Diminished value may or may not be recoverable under an auto accident claim depending on the relationship between the injured party and the insurance company.

If you make a claim under your own policy (e.g. your auto was damaged because you hit a tree), Missouri law does not require insurers to pay for diminished value and there is case law that addresses this issue - Lupo v. Shelter Mutual Insurance Company, 70 S.W.3d 16. In this case, an insured brought action against his own insurance company to recover the diminished value of his adequately repaired car. The insured claimed that his car was worth less than is was before the accident even though the car had been properly and adequately repaired. The court ruled in favor of the insurance company, the insured appealed and the appeals court agreed the insured's auto policy **did not** require his insurance company to pay for the diminished value of an adequately repaired car. The law does not prohibit an insurer from offering this type of coverage, so it is always best to read your policy or ask your agent to find out whether your policy will pay you for diminished value claims.

If you make a claim under someone else's policy (e.g. your auto is damaged because someone else hit you), Missouri courts have included diminished value as recoverable damages - Rook V. John F. Oliver Trucking Company, 566 S.W.2d 200 (Mo. App. 1977). In this case, the court said the amount of damage should be measured from the fair market value immediately before the collision and the fair market value immediately after the collision. However, if repairs have been made to the auto as a result of the accident, the court said that the dimished value should be the difference between the fair market value immediately before the collision and the fair market value after the repairs.

What is Actual Cash Value?

The insurance company is required to pay the fair market value of a vehicle. The fair market value of your vehicle can be found by surveying dealers in your area, receiving information from recognized groups such as "CCC", "ADP AutoSource", or one of the industry guides, such as "NADA" to determine the average retail price. When disputing the company's offer of settlement, it is up to you to prove that your vehicle is worth more than what the company is offering.

The insurance company will adjust the value based on physical wear and tear as well as any pre-existing damage. If the company determines some replacement items are better than the ones damaged, they may apply "betterment." Betterment is an improvement that increases the value of property and is more extensive than mere repairs. You would be responsible for those charges. For example, if the tires are damaged or the battery or mechanical parts must be replaced, the company may replace new for old. The betterment would depend on the age of the older item being replaced.

What is Mitigation?

Mitigate means to minimize. Regardless of insurance, you have an obligation to mitigate the damages in a loss according to Missouri courts. As such, you have an obligation to keep your expenses to a minimum. For example, you may have to move your vehicle from storage to a neutral location, such as your home, until the insurance dispute is settled.

New parts or after-market parts?

Missouri regulation 20 CSR 100-1.050(2)(D)2 allows companies to use aftermarket parts when completing an estimate for repairs on your damaged vehicle.

A company is not obligated to put new factory parts on damaged vehicles. After-market parts are typically defined as "parts not manufactured by the original equipment manufacturer that replace non-mechanical sheet metal parts or plastic parts that constitute part of the exterior of a motor vehicle, including, but not limited to, an inner or outer panel."[1] In accordance with the regulation, all after-market parts installed on the vehicle must be clearly identified on the repair estimate. Used parts, as well as after-market parts, are acceptable in the repair of vehicles if certain criteria are met.

Estimates

The insurance company is obligated to pay for repairs "in an amount for which it may be reasonably expected the damages can be satisfactorily repaired."

It is common for insurance companies to review estimates submitted for repairs. However, you are the only one that can authorize repairs to your vehicle. Therefore, you can take your car to a body shop of your choosing, but if the insurance company has a lower estimate from another body shop, then the lower amount is all the insurance company is obligated to pay.

According to Missouri regulation 20 CSR 100-1.050 (2)(E), when the insurer elects to repair and designates a specific repair shop for automobile repairs, the insurer shall restore the vehicle to its condition prior to the loss at no additional cost to the claimant, other than as stated in the policy and within a reasonable period time.

What about rental re-imbursement and/or loss of use?

Many companies offer an endorsement that you may purchase to cover rental re-imbursement costs that you may incur in the event your car was damaged. For **theft claims,** Missouri regulation 20 CSR 500-2.100 provides minimum standards for rental reimbursement under theft coverage. The maximum waiting period before coverage begins is forty-eight hours. The minimum payment is ten dollars per day or three hundred dollars per rental occurrence. The insurer may terminate these payments when they extend a reasonable settlement to the insured.

In the event another party was responsible for the accident (someone else hit your car), common liability language states that a company will pay for the damages in which their insured becomes legally liable, including the loss of use of your car. The insurance company will determine if you have actually suffered a loss.

[1] www.asashop.org/legis/disclosure.htm

If a claimant does not rent a vehicle, some companies will offer a small amount per day to help absorb expenses such as public transportation, getting rides from friends or family, etc.

What is comparative fault?

In 1983, the Missouri Supreme Court adopted the rules of pure comparative fault. This means that any parties involved in an accident may be partially responsible for the accident, and allows your damages to be reduced by the percentage you are at fault in the accident. Insurers are allowed to investigate an accident and make a decision as to the percentage of fault of all parties involved. They will make voluntary offers based on this opinion.

What about salvage?

Missouri statutes define "salvage vehicle" as any motor vehicle or semitrailer, which has been damaged to the extent that the total cost of repairs to rebuild the vehicle to its condition immediately before it was damaged exceeds 75% of the fair market value of the vehicle prior to the damage. (Fair market value is described on page 5 under Actual Cash Value) The total cost of repairs to rebuild or reconstruct the vehicle shall not include the cost of repairing, replacing, or reinstalling inflatable safety restraints, tires, sound systems or any sales tax for parts or materials to rebuild the vehicle.

What is first-party liability?

A first-party liability claim is when you make a claim against your own insurance policy. The claim payment is based on contractual agreements or provisions in your policy.

What is third-party liability?

A third-party liability claim is when you make a claim against someone else's policy.

Typical policy language states that the insurer will pay for damages for which the insured becomes legally liable. Some damages may include loss of use if the vehicle requires repair. Insurers will pay reasonable costs for vehicle rental, bus fares, etc., to the third-party claimants. The company will usually terminate these payments when a reasonable settlement offer is extended to the claimant.

What are bodily injury considerations?

Once a company has determined responsibility in an accident, they will gather information in order to extend a fair settlement offer.

Companies will take several factors into consideration when offering the settlement. They will review all reasonable medical expenses, lost wages, degree of injury and long-term effects. At this time there is no law to force companies to include pain and suffering in the settlement offer.

Although the Missouri Department of Insurance cannot force a company to pay a bodily injury claim, the department has the authority to ensure the company performs a thorough investigation.

Depending on the circumstances involved in the accident, it may take a while for the insurance companies to determine liability and settle the claims. If you seek medical attention, Missouri law allows you to file accident-related medical claims under your health insurance coverage for benefits applicable to your policy. Once the automobile insurer determines liability, the bodily injury payment is paid in addition to any benefit received. The bodily injury settlement is based on reasonable medical expenses and is separate from health insurance payments. Missouri law does not allow automobile insurance companies to subrogate (recoup their payment) from your health carrier and vice versa. Only self-funded health benefit plans are allowed to subrogate in Missouri.

The medical payments portion of some auto policies also provides immediate coverage for health services due to an auto accident rendered regardless of who is at fault. You should review the medical payments portion of your policy for coverage that may extend to the medical treatment.

How to contact the Missouri Department of Insurance, Financial Institutions & Professional Registration

For additional information contact the Consumer Insurance Hotline toll free at 1-800-726-7390 or go to http://www.insurance.mo.gov.